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TRANSCRIPT OF PROCEEDINGS

C O N F I D E N T I A L

UNITED STATES OF AMERICA

BEFORE THE

FEDERAL ELECTION COMMISSION

MAY 7 10 08 AM '98

FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

In Re:

MUR 4648

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Deposition of WILLIAM D. POWERS

Pages 1 thru 48

Washington, D.C.
April 28, 1998

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Washington, D.C.
Tuesday, April 28, 1998

The deposition of WILLIAM D. POWERS,
called for examination by counsel for the Federal
Election Commission in the above-entitled matter,
pursuant to Notice, in the offices of the Federal
Election Commission, 999 E Street, N.W.,
Washington, D.C., convened at 10:15 a.m., before
Paula J. Eastes, a notary public in and for the
District of Columbia, when were present on behalf
of the parties:

APPEARANCES:

On behalf of the Federal Election Commission:

TONY BUCKLEY, ESQ.
JOSE M. RODRIGUEZ, ESQ.
Federal Election Commission
Office of the General Counsel
Enforcement Division
999 E Street, N.W.
Washington, D.C. 20463
(202) 694-1650

On behalf of William D. Powers:

BENJAMIN L. GINSBERG, ESQ.
DONALD F. McGAHN, II, ESQ.
Patton Boggs, L.L.P.
2550 M Street, N.W.
Washington, D.C. 20037
(202) 457-6405

SETH L. ROSENBERG, ESQ.
Clayman & Rosenberg
305 Madison Avenue
New York, New York 10165
(212) 922-1080

JEFFREY T. BULEY, ESQ.
General Counsel
New York Republican State Committee
315 State Street
Albany, New York 12210
(518) 462-2601

C O N T E N T S

WITNESS EXAMINATION BY COUNSEL FOR
FEDERAL ELECTION COMMISSION

WILLIAM D. POWERS

By Mr. Buckley Page 4 & 35

By Mr. Rodriguez Page 31 & 38

E X H I B I T S

POWERS EXHIBITS FOR IDENTIFICATION

Exhibit No. 1..... 12

P R O C E E D I N G S

Whereupon,

WILLIAM D. POWERS

was called for examination by counsel for the
Federal Election Commission and, having been first
duly sworn by the notary public, was examined and
testified as follows:

EXAMINATION BY COUNSEL FOR FEDERAL

ELECTION COMMISSION

BY MR. BUCKLEY:

Q. Mr. Powers, my name is Tony Buckley. I
am an attorney with the Federal Election
Commission, Office of the General Counsel. With me
today is Jose Rodriguez, who is also an attorney at
the Federal Election Commission.

This deposition is being conducted
pursuant to Title 2 of the United States Code,
Section 437d(a)(4), which allows the Commission to
compel testimony in investigations.

Under the statute the Commission's
investigations are confidential. We do not divulge
information gained during the course of our

1 investigation. We interpret that statute to mean
2 that no one who gains information obtained during
3 the course of our investigation is also allowed to
4 divulge any information. We interpret that to
5 include witnesses as well.

6 Have you ever had a deposition taken of
7 you before?

8 A. Yes.

9 Q. You have. So, you know that the Court
10 Reporter can only record verbal answers, she cannot
11 record nods of the head or shakes of the head. So,
12 if I ask a question, you mean to say yes, I will
13 ask you to say yes. If you mean to say no, I will
14 ask you to say no.

15 If you don't hear or don't understand a
16 question I ask, please tell me and I will either
17 restate or rephrase the question.

18 If you realize during the course of this
19 deposition that an answer you have given is
20 incomplete or incorrect, please let me know and I
21 will allow you to complete or correct your
22 statement.

1 If you need to take a break at any time,
2 please let me know and we will do our best to
3 accommodate you.

4 Would you state your name and address for
5 the record, please?

6 A. William Powers.

7

8 MR. BUCKLEY: Before we proceed further,
9 would counsel identify themselves for the record?

10 MR. GINSBERG: Ben Ginsberg with Patton
11 Boggs representing Mr. Powers.

12 MR. ROSENBERG: Seth Rosenberg, Clayman &
13 Rosenberg, 305 Madison Avenue, New York, New York,
14 representing Mr. Powers.

15 MR. MCGAHN: Donald McGahn, Patton Boggs,
16 on behalf of Mr. Powers.

17 MR. BULEY: Jeff Buley, General Counsel,
18 New York Republican State Committee.

19 BY MR. BUCKLEY:

20 Q. Mr. Powers, other than counsel have you
21 discussed your deposition today with anybody?

22 A. No.

1 Q. Have you reviewed any documents in
2 preparation for your deposition?

3 A. No.

4 Q. What I am going to do now is just get a
5 little background information from you.

6 What is your Social Security number?

7 A.

8 Q. And your marital status?

9 A. Married.

10 Q. Any children?

11 A. Three sons.

12 Q. What is your educational background?

13 A. High school.

14 Q. College and on?

15 A. Limited college.

16 Q. Let's get high school.

17 A. High school is what I said. Limited
18 college.

19 Q. If you could give me your employment
20 history starting from 1980 and on.

21 A. 1980 I was Chief of Staff to U.S. Senator
22 D'Amato.

1 January 1991 I became State Chairman of
2 New York.

3 Q. Now, the New York State Republican Party
4 in 1993 first instituted a poll watch program; is
5 that correct?

6 A. Yes.

7 Q. And 1993 was the mayoral election in
8 New York City?

9 A. Correct.

10 Q. In 1994 you again had a poll watch
11 program. This is the first time the poll watch
12 program was done in conjunction with the federal
13 election; is that correct?

14 A. Correct.

15 Q. What was your role in instituting that
16 poll watch program?

17 A. I wanted to insure that the Republican
18 Party had an opportunity to win. I did training
19 programs for poll watchers to cover polling places
20 that had not been covered for in excess of
21 20 years.

22 Q. What specifically did you do to see that

1 that occurred?

2 A. I was the Chairman. We had people that
3 ran training seminars, enlisted supporters to be
4 poll watchers. It was handled by our staff.

5 Q. Part of that poll watch program was
6 reimbursing these poll watchers for certain
7 expenses that they incurred on the day of the
8 election; is that correct?

9 A. Correct.

10 Q. We have discovered that the way the money
11 was obtained was that four checks were drafted, the
12 checks were cashed and the cash was brought down to
13 New York City and then given to you.

14 What knowledge did you have about the
15 drafting of those four checks and the cashing of
16 those checks?

17 MR. ROSENBERG: I'm not sure of the
18 question. Can you break that down into pieces
19 here? I'm not sure the question makes sense.

20 MR. BUCKLEY:

21 Q. Did you understand my question,
22 Mr. Powers?

1 A. Well, would you go through it once more?

2 Q. Okay.

3 The day before the 1994 general election
4 Jeffrey Buley bought down \$50,000 in cash from
5 Albany to you.

6 A. Correct.

7 Q. What knowledge did you have about how
8 Mr. Buley obtained that \$50,000?

9 A. By checks.

10 Q. And who were those checks made out to?

11 A. I don't recall specific names.

12 Q. Prior to getting that cash did you know
13 who the checks had been made out to?

14 A. Members that worked at the committee.
15 People that worked at the committee.

16 Q. At the time did you know the individuals
17 to whom the checks had been written out to?

18 A. I probably did. I just don't recall who
19 specifically.

20 Q. Do you recall when you would have been
21 made aware of that information?

22 A. I knew counsel was drawing together some

1 checks for money for New York City.

2 Q. Do you know why the money was obtained in
3 that fashion?

4 A. I believe it was the only way to obtain
5 money.

6 Q. Why was that the only way to obtain
7 money?

8 A. Well, I don't know.

9 Q. Had you been told that that was the only
10 way to obtain the money?

11 A. No.

12 Q. You just understand that that was the
13 only way to obtain the money?

14 A. Correct.

15 Q. Other than the \$50,000, there was a
16 \$5,000 check written out to Luther Mook.

17 Do you recall that?

18 A. I recall hearing about that. Yes.

19 Q. In fact, you actually signed that check
20 to Mr. Mook.

21 Do you recall that?

22 A. Not specifically, but if I did, I did.

1 Q. Do you know why that check to Mr. Moot
2 would have been handled differently than the
3 \$50,000 that was brought down to you?

4 A. Yes.

5 Q. Why?

6 A. Mr. Mook had been working in the Asian
7 community as a liaison with us for a long period of
8 time trying to build relationships with the Asian
9 community. I knew him. He had been around a lot.
10 He did a good job for us and got us to know people
11 in the Asian community.

12 Q. Why would getting the money to Mr. Moot
13 be handled differently than the other money that we
14 previously spoke of?

15 A. The long-standing relationship.

16 MR. BUCKLEY: I would ask the Court
17 Reporter to mark this as Powers Exhibit 1.

18 (Powers Exhibit No. 1
19 was marked for identification.)

20 BY MR. BUCKLEY:

21 Q. Mr. Powers, I would ask you to look at
22 that document and see if you recognize that.

1 A. Yes. I do.

2 Q. Is that the affidavit you filed in
3 response to the Commission's Order to submit
4 written answers in this matter?

5 A. Yes. It is.

6 Q. On page 2, No. 1 of this document, in
7 response to the first question, the Commission's
8 first question, regarding when and where you
9 received the \$50,000 from Mr. Buley, you state that
10 you have no specific recollection as to the time
11 and location, but you believe somewhere in midtown
12 Manhattan at some point during the afternoon.

13 A. Correct.

14 Q. We understand that it may have been two
15 places that you may have received the money, either
16 the State Republican Headquarters on Lexington
17 Avenue or the New York Sheraton Hotel.

18 Does that help you recall where you may
19 have received the cash?

20 A. No.

21 Q. Was anyone else present when Mr. Buley
22 gave you the money?

1 A. I don't believe so.

2 Q. What did you do with the money once
3 Mr. Buley gave it to you?

4 A. At the campaign headquarters volunteers
5 came in to pick up what expense money would be used
6 for activities as eating, taxis, and I passed it
7 out.

8 Q. How soon after you received the money did
9 volunteers start coming in?

10 A. I don't recall a specific time. That
11 evening.

12 Q. That evening.

13 So, did all of the distribution of the
14 money take place at the campaign headquarters?

15 A. Yes. It did.

16 Q. You say people starting coming in that
17 evening. Did the distribution continue throughout
18 evening? Was it a certain period of time that you
19 recall?

20 A. I believe it took quite awhile. There
21 were a number of people that came in.

22 Q. How many people?

1 A. Dozens.

2 Q. In what amounts did you distribute the
3 money?

4 A. I can't be specific. A couple of
5 thousand to some for groups. Maybe a couple to
6 others. But it was all gone.

7 Q. So, there were certain individuals to
8 whom you gave a couple of thousand dollars in cash
9 to?

10 A. Yes.

11 Q. About how many individuals would you say?

12 A. Several dozens of them. I can't be
13 specific in number.

14 Q. Was any record kept of the individuals to
15 whom you gave the money?

16 A. No.

17 Q. Did you have a list of people you
18 expected to come and pick up money?

19 A. No.

20 Q. How did you know who to give what amounts
21 to?

22 A. I would ask what do you need for your

1 group of people, volunteers. I need \$2,000.

2 Okay. I took their word.

3 Q. And there was no accounting of who got
4 what amount?

5 A. No.

6 Q. At state headquarters, where this
7 distribution took place, was any log kept of
8 visitors to the building?

9 A. No.

10 Q. And you didn't get any receipts from the
11 people to whom you gave the cash?

12 A. No.

13 Q. Pages 2 to 3 of your response, the same
14 response to the question asking you to state the
15 number of persons to whom you personally
16 distributed any portion of that \$50,000,
17 you state: "There is no way I can give a precise
18 count of the number of our volunteers who I helped
19 in this way, but it was certainly several hundred.

20 By volunteers do you mean the people who
21 actually came and picked up the money or the poll
22 watchers who eventually received it?

1 A. The poll watchers who eventually received
2 funding, expense money.

3 MR. GINSBERG: I think perhaps your
4 question is unclear.

5 Is your question about everyone who came
6 in, were there any people who were on salary who
7 came in?

8 MR. BUCKLEY: No.

9 I am trying to understand his answer on
10 pages 2 and 3 of his affidavit, his response to the
11 Commission's interrogatories, where he says: "There
12 is no way I can give a precise count of the number
13 of our volunteers who I helped in this way, but it
14 was certainly several hundred." I am wondering
15 whether that phrase means the volunteers who are
16 out on the street watching the polls or the people
17 that came in and he gave the money to.

18 MR. ROSENBERG: He said that there were
19 several dozen roughly who came in, who were then to
20 distribute it to the volunteers, who amounted into
21 the hundreds.

22 MR. BUCKLEY: I am trying to understand

1 from Mr. Powers what he means by this.

2 MR. GINSBERG: If you ask the question
3 concisely, I am sure you will get a concise
4 answer.

5 BY MR. BUCKLEY:

6 Q. So, in your statement the volunteers who
7 are helped in this way means the poll watchers who
8 eventually received the money that was to be
9 distributed?

10 A. Correct. And there were thousands of
11 those.

12 Q. There was about 10,000 in 1994; is that
13 correct?

14 A. Yes.

15 Q. Also on page 3 of your response, the
16 response to question (c), you state: "I no longer
17 have any specific recollections of any persons to
18 whom I may have given more than \$100 on election
19 day, with the possible exception of other state
20 party officials who I believe may have been with me
21 on election day."

22 Does that mean you have a specific

1 recollection of state party officials who were with
2 you on election day to whom you distributed money?

3 A. I couldn't be sure. I don't recall.
4 There was hundreds and hundreds of people. So, I
5 don't remember who. I don't recall.

6 Q. In response to question (d) you state: "I
7 have no personal knowledge of to whom the money may
8 have ultimately been distributed, to the extent it
9 may have been."

10 You expected this money was to be
11 distributed, did you not?

12 A. Yes.

13 Q. When you say you have no personal
14 knowledge to whom the money may have ultimately
15 been distributed, do you have any knowledge? Did
16 you gain any knowledge at any time of to whom the
17 money was distributed?

18 MR. ROSENBERG: You mean the specific
19 identities of people, the name of a poll watcher
20 who might have been reimbursed for a taxi or
21 something of that sort?

22 MR. BUCKLEY: Or another intermediary

1 along the way. Anyone who may have had money
2 distributed to them after Mr. Powers initial
3 distribution.

4 THE WITNESS: I don't have any personal
5 knowledge of that.

6 BY MR. BUCKLEY:

7 Q. What do you mean by personal knowledge?

8 A. Would you repeat the question again?

9 Q. In your response to this question what do
10 you mean by personal knowledge?

11 A. I don't have personal knowledge that the
12 money was passed on to the volunteers, but I assume
13 it was.

14 Q. Okay.

15 In your response you say you have no
16 personal knowledge of to whom the money may have
17 ultimately been distributed.

18 Am I correct in understanding that you
19 mean that you don't have personal knowledge that it
20 was distributed, but you understand that it was?

21 A. Correct.

22 Q. In 1995 the parties switched its accounts

1 from Key Bank to Trustco Bank; is that correct?

2 A. Correct.

3 Q. What was the reason for that switch?

4 A. We would rather do business with Trustco
5 than Key, I guess. I don't know.

6 Q. I'm sorry. Go ahead.

7 A. We switched banks.

8 Q. In 1996 you conducted another poll
9 watcher program. Was anything additional needed in
10 terms of setting up this program than had been done
11 in 1994?

12 A. It was just less of an effort.

13 Q. And again checks were issued, cash was
14 obtained and brought down to New York City where it
15 was given to you; is that correct?

16 A. Correct.

17 Q. In fact, one of those checks was issued
18 to you; is that correct?

19 A. Correct.

20 Q. What was the circumstances of having that
21 check issued to you?

22 MR. ROSENBERG: I don't understand.

1 The circumstance would seem to be that a
2 check was issued to him. What specifically do you
3 want to know about that?

4 BY MR. BUCKLEY:

5 Q. I guess what confuses me here is the fact
6 that a check was issued to you and you gave it back
7 to Mr. Buley and Mr. Buley cashed it and then he
8 brought the cash back down to you, which seems a
9 rather circuitous route for getting money to you.
10 I am wondering why were you involved in this whole
11 process.

12 MR. ROSENBERG: I just object to your
13 characterization of this as circuitous.

14 MR. BUCKLEY: I wasn't trying to
15 characterize it.

16 MR. ROSENBERG: It happens every day that
17 you write a check, you give it to someone to take
18 to the bank to cash. We all do that at one time or
19 another in business and personal lives.

20 Why is that circuitous?

21 MR. BUCKLEY: I will rephrase the
22 question.

1 BY MR. BUCKLEY:

2 Q. Did Mr. Buley ever explain to you why he
3 needed you to sign the check back to him to obtain
4 the cash?

5 A. No.

6 Q. What time of the day was it that
7 Mr. Buley gave you this check?

8 A. Probably, again, mid late afternoon.

9 Q. I think you are talking about the cash.
10 I am talking about the initial check.

11 A. I don't know.

12 Q. Do you have any knowledge about the
13 reason for the specific amount of the check that
14 you received?

15 A. No.

16 Q. Do you know if prior arrangements had
17 been made with Trustco Bank regarding the cashing
18 of these checks?

19 A. No. I don't know.

20 Q. Now, again, money was brought down to you
21 in New York City later that day. And, again, we
22 understand it may have been at party headquarters

1 or the New York Sheraton.

2 Do you recall which of those locations it
3 may have been?

4 A. Not specifically.

5 Q. Was anyone else present when Mr. Buley
6 handed you the cash?

7 A. I don't believe so.

8 Q. After Mr. Buley gave you the cash what
9 did you do next?

10 A. Distributed the cash to the volunteers.

11 Q. Was the cash distributed in the same
12 manner?

13 A. The same manner. Yes.

14 Q. Individuals came to state party
15 headquarters, they told you what they needed?

16 A. I'm not sure it was state party
17 headquarters. I don't recall.

18 MR. GINSBERG: He just answered that he
19 didn't recall the precise location.

20 THE WITNESS: Campaign headquarters that
21 day. I don't know.

22 MR. BUCKLEY: The reason I said state

1 party headquarters is that I believe when we were
2 talking about the 1994 distributions he mentioned
3 that it took place at state party headquarters.

4 MR. ROSENBERG: There may be some
5 confusion because on an election day there are two
6 headquarters. The state party has its permanent
7 headquarters office in New York, but there is also
8 a campaign headquarters which is set up elsewhere.
9 So, it could have been at either of these places.
10 They are both gathering points and organizing
11 points.

12 BY MR. BUCKLEY:

13 Q. So, when we were talking about the 1994
14 distribution and you mentioned it took place at
15 party headquarters, you weren't necessarily
16 referring to the building on Lexington Avenue?

17 A. That is correct.

18 Q. It may have been?

19 A. It may have been.

20 Q. How soon after receiving the money did
21 volunteers start to come and get their
22 distributions?

1 A. Some point during that afternoon or
2 evening. I can't be specific as to time.

3 Q. Was anybody with you when you distributed
4 the money?

5 A. No.

6 Q. Did this take place through the course of
7 the evening? Did it carry over to election day?

8 A. I don't believe so. I don't recall. I
9 don't believe so. I think it was all done the
10 evening before.

11 Q. Is there any record of visitors receiving
12 cash kept?

13 A. No.

14 Q. Did you have any list of individuals who
15 were supposed to receive any of this cash?

16 A. No.

17 Q. Approximately how many people did you
18 give distributions of over \$200 to?

19 A. Dozens.

20 Q. Could you be a little more specific?

21 Are we talking more than 50?

22 A. It could be.

1 Q. Could it be more than 75?

2 A. It could be.

3 MR. ROSENBERG: I don't think you want
4 him to be guessing.

5 MR. BUCKLEY: I want to get as close a
6 number as I can.

7 MR. GINSBERG: Well, he has already
8 testified that he doesn't know a precise number.
9 So, we can play guessing games in any degree you
10 want. We can go by ones, we can go by fives, we
11 can go by tens or twenties.

12 MR. RODRIGUEZ: Whatever will help the
13 witness here.

14 THE WITNESS: I can't be specific. A lot
15 of people. You are dealing with thousands of
16 volunteers. A lot of people.

17 BY MR. BUCKLEY:

18 Q. And you kept no record of individuals to
19 whom you distributed any of this money?

20 A. No.

21 Q. Had you had an understanding prior to the
22 distribution who would be coming to get the money?

1 A. I didn't. No.

2 Q. Had you talked to anybody about receiving
3 money to be distributed?

4 MR. ROSENBERG: I don't understand the
5 question.

6 Do you?

7 THE WITNESS: I don't.

8 BY MR. BUCKLEY:

9 Q. Prior to the actual distributions, had
10 you had any conversations with individuals who you
11 knew would then be coming to receive the money
12 distributed?

13 A. I didn't.

14 Q. I am trying to understand how this was
15 done because it sounds like people just showed up
16 and you gave them cash.

17 How did you know --

18 A. The training seminars. It would be told
19 to people at training seminars if you needed funds
20 for baby-sitters, food, cabs, funds would be made
21 available.

22 Q. As I understand it, these were people

1 that the money was eventually distributed to, not
2 the people who actually came and received the cash
3 from you.

4 Is that correct?

5 MR. GINSBERG: Would you rephrase that
6 again?

7 MR. BUCKLEY: Mr. Powers just said that
8 people were told at the training seminars that they
9 could get money for baby-sitters or for cabs. I
10 have not understood from his answers that these
11 were the same people who came to headquarters and
12 received the cash.

13 MR. GINSBERG: You haven't laid the
14 foundation to ask that question yet.

15 MR. ROSENBERG: Also, at the very
16 beginning of your questioning you asked him to
17 describe the program. My recollection is he talked
18 to you about the coordinators who had a role for
19 making sure that people at various places got to
20 the polling places, did their jobs, had their
21 certificates. Obviously, it is with respect to
22 those people that you are now addressing the

1 question.

2 You wouldn't just send 1,000 people out
3 into the street without any kind of hierarchy or
4 administration. I think he described in sort of a
5 rough outline that hierarchy to you either in his
6 first or second substantive question.

7 MR. BUCKLEY: What I am trying to
8 understand is these people in the hierarchy who
9 were the ones who came and received the money from
10 him, how did he know that they were in the
11 hierarchy?

12 THE WITNESS: They told me they were.

13 BY MR. BUCKLEY:

14 Q. And you took them at their word?

15 A. Absolutely.

16 Q. You didn't ask for any identification?

17 A. No.

18 Q. You didn't have any list of people who
19 were supposed to receive cash?

20 A. No.

21 EXAMINATION BY COUNSEL FOR FEDERAL
22 ELECTION COMMISSION

1 BY MR. RODRIGUEZ:

2 Q. I guess the question is: In the
3 hierarchy what position --

4 MR. GINSBERG: Who is asking the
5 questions here, guys?

6 MR. RODRIGUEZ: I am trying to clarify
7 actually. We went back and forth on this. So,
8 right now I am asking a question.

9 BY MR. RODRIGUEZ:

10 Q. In the hierarchy there seemed to be
11 certain people that were responsible basically for
12 coming and getting the money and distributing it to
13 the individuals for reimbursements, correct?

14 A. Correct.

15 Q. Did they have a certain position within
16 the party?

17 A. No.

18 Q. A certain title?

19 A. No.

20 Q. Was there some kind of a list of these
21 individuals somewhere? Not necessarily a list you
22 kept, but a list somewhere?

1 A. No.

2 Q. Is there any way to identify these
3 individuals?

4 A. No.

5 Q. Nobody in the party would have any kind
6 of list or knowledge of who these individuals would
7 have been?

8 A. I don't.

9 Q. Do you know of anybody in the party that
10 would?

11 A. I think we had lists. I don't know of a
12 list. I don't have a list.

13 Q. How would you verify an individual that
14 came in and asked for whatever amount it may be,
15 was, in fact, entitled to that amount of money?

16 A. Take their word.

17 You are dealing with election day
18 activities. I believe we would have known if there
19 had been a problem with people being reimbursed for
20 cab service or food. We had 400 volunteer lawyers
21 who were constantly out there.

22 Q. So, it would have been people known to

1 you or known to somebody else within the party?

2 A. Could have been.

3 Q. So, would it be possible to identify a
4 certain amount of these individuals in some manner?

5 MR. ROSENBERG: How does he know?

6 Anything is possible.

7 MR. RODRIGUEZ: Anything is possible.

8 MR. ROSENBERG: We will stipulate that
9 anything is possible.

10 MR. RODRIGUEZ: Fair enough.

11 BY MR. RODRIGUEZ:

12 Q. Were some of these individuals known to
13 you? Were they people you had dealt with in the
14 past?

15 A. I might have recognized some faces.

16 Q. If you can estimate, of the few dozen
17 that came, how many of them were people you had
18 knowledge of or dealt with in the past?

19 A. I might have recognized a few.

20 Q. A few being half of the folks that came
21 in?

22 A. A couple.

1 MR. RODRIGUEZ: I am just trying to get
2 an understanding how it works. Like Tony said,
3 from the initial testimony it seems like anybody
4 can walk off the street if they know where to go.

5 MR. GINSBERG: This is probably why the
6 Federal Election Commission should have some people
7 in the General Counsel's Office who have worked in
8 campaigns or party committees.

9 MR. RODRIGUEZ: So, we have to sit here
10 and ask the questions, but it helps us.

11 MR. GINSBERG: Really. Get out on the
12 street sometime.

13 BY MR. RODRIGUEZ:

14 Q. That leads me to a question.

15 How would they know to come to you to ask
16 for the reimbursements?

17 MR. GINSBERG: He already answered that.

18 MR. RODRIGUEZ: Is that an objection?

19 MR. ROSENBERG: That is an objection.

20 MR. BUCKLEY: Take a short break.

21 (Recess.)

22 MR. BUCKLEY: Back on the record.

1 EXAMINATION BY COUNSEL FOR FEDERAL

2 ELECTION COMMISSION

3 BY MR. BUCKLEY:

4 Q. Mr. Powers, I asked you earlier about the
5 method that was used for obtaining the cash and I
6 believe you said that it was your understanding
7 that the method that was used, that is, writing out
8 four checks and cashing those four checks, was the
9 way it had to be done.

10 MR. GINSBERG: Which year are you talking
11 about?

12 MR. BUCKLEY: This is 1994.

13 THE WITNESS: I believe so.

14 BY MR. BUCKLEY:

15 Q. Where did you gain your understanding of
16 why it had to be done that way?

17 MR. ROSENBERG: Do we have a privilege
18 issue here?

19 We know that it was Mr. Buley who was
20 involved in the process. If it is a conversation
21 between him and his counsel, do we have a privilege
22 question?

1 MR. GINSBERG: If it involves legal
2 advice, yes. If it just involves practical advice,
3 no.

4 MR. ROSENBERG: I turn this over to you,
5 Mr. Ginsberg.

6 MR. GINSBERG: Let him go on with his
7 questioning and we will see where it goes.

8 BY MR. BUCKLEY:

9 Q. Where did you gain your understanding of
10 why that procedure had to be followed?

11 MR. GINSBERG: If it is the name of an
12 individual, you can answer. If you don't remember,
13 you don't remember.

14 THE WITNESS: I don't remember.

15 BY MR. BUCKLEY:

16 Q. Now, with regard to the \$50,000 that was
17 used in 1994, how was that number determined, that
18 \$50,000 was needed?

19 A. I don't know.

20 Q. At some point was the money gone and you
21 still had people coming to get it?

22 A. Yes.

1 Q. And was money made available to these
2 persons or did they have to go away empty handed?

3 A. They went away empty handed.

4 Q. Were there a lot of people that went away
5 empty handed?

6 A. I don't recall.

7 Q. In 1996 was there enough money for all
8 the people who came for distributions or did some
9 people go away empty handed?

10 A. I don't remember in '96. I don't recall.

11 Q. I believe you stated earlier that some
12 people came and you gave them thousands of dollars.

13 A. Correct.

14 Q. Was there a minimum amount that you
15 distributed?

16 What was the lowest amount that you
17 distributed that you recall in 1994?

18 A. I don't know the minimum amount.

19 Q. How about 1996? Can you recall the
20 minimum amount that you distributed?

21 A. No.

22 Q. Do you recall if you gave anybody less

1 than \$200?

2 A. I don't believe so.

3 Q. This is in 1994. You did not give
4 anybody less than \$200?

5 A. I don't remember. I could have. I don't
6 recall. I don't remember.

7 Q. In 1996 do you recall if you gave anybody
8 less than \$200?

9 A. I might have. I don't remember
10 specifically. I don't recall.

11 Q. How about less than \$100?

12 A. I don't recall.

13 MR. BUCKLEY: Do you have any additional
14 questions.

15 MR. RODRIGUEZ: Yes.

16 EXAMINATION BY COUNSEL FOR FEDERAL

17 ELECTION COMMISSION

18 BY MR. RODRIGUEZ:

19 Q. I am trying to clarify the check
20 situation again, how the various checks were
21 issued, cashed and the cash was collected and
22 transferred. You said you had a general

1 understanding of that and there was some question
2 about whether it might be a privilege issue or not.

3 Explain your general understanding to me
4 why you generally understood that the way to obtain
5 the cash was through various checks issued to
6 individuals cashed and collected.

7 Do you understand my question?

8 MR. GINSBERG: I believe he testified he
9 delegated that to others.

10 MR. RODRIGUEZ: I'm sorry. Let me
11 clarify.

12 BY MR. RODRIGUEZ:

13 Q. We are talking about the checks that were
14 issued initially to various individuals, cashed,
15 the cash was collected and transferred down to
16 New York City.

17 Concerning the original transaction, the
18 way the cash was basically taken out of the bank, I
19 think you testified your general understanding was
20 that was the way it was supposed to be done, it had
21 to be done; is that correct?

22 A. Correct.

1 Q. What was your general understanding? Why
2 was that the correct form?

3 A. To get money out of the bank.

4 Q. I am sorry. Can you repeat your answer?
5 I didn't really hear it.

6 A. I thought the general way to get money
7 out of the bank was by checks.

8 Q. By various checks, as opposed to one
9 check, was that an issue you had understanding of?

10 A. No.

11 Q. Was your understanding that possibly some
12 legal issues were involved in the transaction?

13 A. No.

14 Q. Was it a matter of convenience?

15 A. I believe so.

16 Q. In what sense was it more convenient to
17 do it that way?

18 A. I don't understand the question.

19 Q. I guess my question is: I am trying to
20 think of the distinction between going to the bank
21 and having one check cashed for the full amount or
22 some other kind of wire transfer or withdrawal, as

1 opposed to having several checks from individuals
2 cashed and the funds --

3 MR. GINSBERG: Are you trying to ask him
4 for his expertise in how to operate a bank?

5 MR. RODRIGUEZ: Not at all.

6 I am trying to ask him whether he had any
7 understanding as to why that procedure was either
8 more convenient, legally preferable or in any way a
9 better way of just carrying out the transaction.

10 MR. ROSENBERG: He is not the one that
11 did it. Somebody else did it.

12 MR. RODRIGUEZ: Correct. But he may have
13 some understanding why it was done this way. He
14 may have had discussions or communications with
15 individuals.

16 MR. GINSBERG: He has already said, no,
17 he didn't.

18 MR. RODRIGUEZ: He said he had an
19 understanding. I am trying to understand where he
20 gained this understanding and what it was.

21 MR. GINSBERG: Okay. Go ahead.

22 THE WITNESS: I don't know.

1 BY MR. RODRIGUEZ:

2 Q. Just state your understanding. What was
3 your understanding of why that was the preferable
4 way of gaining the funds?

5 MR. ROSENBERG: I think he has said this
6 about six times. His understanding was that this
7 was the way to do it.

8 BY MR. RODRIGUEZ:

9 Q. That is your understanding?

10 A. Yes.

11 MR. RODRIGUEZ: That is what I am trying
12 to understand.

13 MR. GINSBERG: He said that three times
14 already.

15 MR. RODRIGUEZ: Now my understanding is
16 confused, but okay.

17 MR. BUCKLEY: Do you have any other
18 questions?

19 MR. RODRIGUEZ: Yes. I have one
20 clarification actually.

21 BY MR. RODRIGUEZ:

22 Q. We are talking now when you are

1 distributing the funds to the dozen or so
2 individuals and they will, of course, distribute to
3 the poll watchers.

4 Was this done post expenses or prior to
5 the expenses?

6 I guess here is my question.

7 Was there an estimate as to what the
8 expenses would be or were there known expenses that
9 had already occurred when the person came to you
10 asking for the money?

11 That is obviously a compound question,
12 but to the extent you can answer.

13 MR. GINSBERG: An unanswerable question.

14 MR. ROSENBERG: You know from the
15 timing. He said certain of the money was given out
16 on election eve. Obviously you don't have poll
17 watchers out on the street on election eve. So,
18 you are talking about people that are going to be
19 going out, they are in charge of overseeing the
20 work of poll watchers and making sure they get
21 reimbursed the next day. So, that would seem to
22 speak for itself.

1 BY MR. RODRIGUEZ:

2 Q. That was one way. Were there other ways
3 of doing it as well?

4 MR. ROSENBERG: I don't get that. Other
5 ways of doing what?

6 BY MR. RODRIGUEZ:

7 Q. Were there any circumstances where
8 somebody came to you after the expenses had been
9 incurred and asked for the money to cover the
10 expenses?

11 A. No.

12 MR. GINSBERG: He already answered that.

13 BY MR. RODRIGUEZ:

14 Q. How did you estimate what the expenses
15 would be? How did you come up with the \$50,000
16 figure?

17 MR. ROSENBERG: That has been asked and
18 answered.

19 MR. RODRIGUEZ: That is an objection?

20 MR. ROSENBERG: That is an objection. It
21 has been answered.

22 BY MR. RODRIGUEZ:

1 Q. I believe you mentioned earlier that
2 there were some people you had issues with
3 concerning the money.

4 Let me rephrase that.

5 Did you have any problems at all making
6 sure that the money that was given to these
7 individuals made it to the poll watchers?

8 A. No.

9 Q. You had no instances where money did not
10 ultimately reach the person they were supposed to
11 reach?

12 A. No.

13 MR. RODRIGUEZ: Okay.

14 MR. BUCKLEY: Is that it for you?

15 MR. RODRIGUEZ: Yes.

16 MR. BUCKLEY: Mr. Powers, I have no more
17 questions for you.

18 I will ask counsel if they have any
19 questions for you.

20 MR. GINSBERG: I don't.

21 MR. ROSENBERG: No.

22 MR. McGAHN: No.

1 MR. BUCKLEY: Mr. Powers, what we will do
2 is we will continue this deposition. That means
3 that if we need to call you again, we will re-open
4 it and I will discuss with Mr. Ginsberg an
5 appropriate time for that.

6 THE WITNESS: Thank you.

7 MR. BUCKLEY: You are entitled to a
8 witness fee and travel reimbursement. Mr. Ginsberg
9 has given me that information. We will process
10 that and the check will be passed on to you through
11 Mr. Ginsberg.

12 Thank you for coming in today.

13 With that, we are off the record.

14 (Whereupon, at 11:05 a.m., the taking
15 of the deposition was concluded.)

16 (Signature not waived.)

CERTIFICATE OF DEPONENT

I have read the foregoing _____ pages which contain the correct transcript of the answers made by me to the questions therein recorded.

* * *

Subscribed and sworn before me this

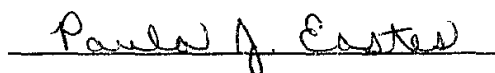
_____ day of _____, 19 _____.

Notary Public in and for

My commission expires _____.

CERTIFICATE OF NOTARY PUBLIC

I, **Paula J. Eastes**, the officer before whom the foregoing deposition was taken, do hereby testify that the witness whose testimony appears in the foregoing deposition was duly sworn by me; that the testimony of said witness was taken by me stenographically and thereafter reduced to typewriting under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto nor financially or otherwise interested in the outcome of the action.

**Paula J. Eastes**

Notary Public in and for
the District of Columbia

My commission expires: February 14, 2001

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

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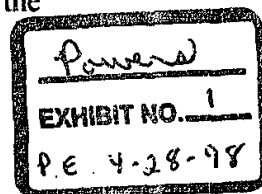
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RESPONSE OF WILLIAM D. POWERS TO ORDER
TO SUBMIT WRITTEN ANSWERS

The following general objections apply to each request for written answers (the "Questions") accompanying the FEC Subpoena:

1. I object to the Questions to the extent that they call for the disclosure of information and/or production of documents that are protected from discovery by the attorney-client privilege or work-product immunity or are otherwise privileged. To the extent that any privileged document is or may be produced in response to the Questions, the production of any such document is inadvertent and is not to be deemed a waiver of any privilege with respect to the produced document or any other document.
2. I object to the Questions to the extent they purport to impose obligations to supplement the disclosure of information and/or the production of documents beyond those imposed by the United States Code and the Federal Rules of Civil Procedure.
3. I undertake to disclose information and produce documents in response to the Questions only in the form, and to the extent, required by 2 U.S.C. § 437d and any other applicable provisions of the United States Code or the Federal Rules of Civil Procedure. I object to each instruction, definition, question and request contained in the Questions to the extent that each instruction, definition, question and request attempts to impose obligations concerning the form or context of document production beyond those required by such provisions or exceeds the



scope of investigation permitted by, or conflicts with 2 U.S.C. § 437d and any other applicable provisions of the United States Code or the Federal Rules of Civil Procedure.

4. I object to the Questions to the extent that they call for the disclosure of information or the production of documents containing proprietary information.

5. I reserve the right to modify the objections made herein or to assert additional objections to production as appropriate.

6. I reserve the right to modify, amend or supplement the answers to the Questions contained herein as further information becomes available or as otherwise appropriate.

Subject to the General Objections, and without waiving same, I hereby respond to the individual Questions as follows:

1. **Regarding the \$50,000 in cash delivered to you by Jeffrey T. Buley in New York City on November 7, 1994,**

a) **state the time of day and your location when Mr. Buley delivered the \$50,000 to you;**

a) I have no specific recollection of the time or the location at which Jeffrey Buley delivered the money to me, but I believe it was somewhere in midtown Manhattan at some point during the afternoon.

b) **state the number of persons to whom you personally distributed any portion of that \$50,000;**

b) I distributed the funds to many people in connection with the New York Republican Party's election day activities to cover the costs of their food, transportation and communication expenses, as permitted by New York law. There is no way I can give a precise

count of the number of our volunteers who I helped in this way, but it was certainly several hundred.

c) **identify each person to whom you personally distributed any portion of that \$50,000 in amounts of \$100 or greater. Include in each identification the specific amount distributed, and the date and time of day and your location when the money was distributed; and**

c) I no longer have any specific recollections of any persons to whom I may have given more than \$100 on election day, with the possible exception of other state party officials who I believe may have been with me on election day.

d) **with respect to the persons identified in response to 1.c. above, identify each person to whom they personally distributed any portion of the above-specified money. Include in each identification the specific amount distributed.**

d) I have no personal knowledge of to whom the money may have ultimately been distributed, to the extent it may have been.

2. **Regarding the \$22,500 in cash delivered to you by Jeffrey T. Buley in New York City on November 4, 1996,**

a) **state the time of day and your location when Mr. Buley delivered the \$22,500 to you;**

a) I have no recollection about the time or the location at which Jeffrey Buley delivered \$22,500 to me, but it was probably in midtown Manhattan sometime in the afternoon.

- b) **state the number of persons to whom you personally distributed any portion of that \$22,500;**

b) I distributed the funds to many people in connection with the New York Republican Party's election day activities to cover the costs of their food and transportation, as permitted by New York law. There is no way I can give a precise count of the number of our volunteers who I helped in this way, but it was probably at least 200.

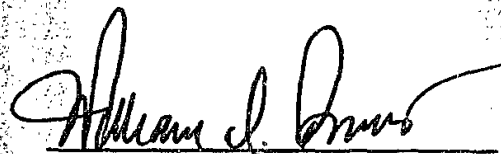
- c) **identify each person to whom you personally distributed any portion of that \$22,500 in amounts of \$100 or greater. Include in each identification the specific amount distributed, and the date and time of day and your location when the money was distributed; and**

c) I no longer have any specific recollections of the persons to whom I may have given more than \$100 on election day, with the possible exception of other state party officials who I believe may have been with me on election day.

- d) **with respect to the persons identified in response to 2.c. above, identify each person to whom they personally distributed any portion of the above-specified money. Include in each identification the specific amount distributed.**


d) I have no personal knowledge of to whom the money may have ultimately been distributed, to the extent it may have been.

I swear that the preceding statements are true to the best of my knowledge,
information and belief.


William D. Powers

SUBSCRIBED AND SWORN to before me this 24 th day of March, 1998.

My Commission Expires:
5/20/99


Notary Public
Jeffrey T. Bulky
Albany County / New York State
Reg. # 02BU4981972